

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2001-652

October 4, 2001

CONSTELLATION POWER SOURCE  
MAINE, LLC, Application for License to  
Operate as a Competitive Electricity Provider

ORDER GRANTING LICENSE

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## **I. SUMMARY**

In this Order, we license Constellation Power Source Maine, LLC to operate as a competitive electricity provider in Maine pursuant to Chapter 305 of the Commission's Rules.

## **II. APPLICATION**

On September 18, 2001, Constellation Power Source Maine, LLC (CPS Maine) applied to the Commission for a license to operate in Maine as a competitive electricity provider, as provided in Chapter 305.

### **A. Type of Service Proposed**

CPS Maine's application states that the proposed licensee plans to "make retail sales of electricity as a standard offer provider" to "residential and small non-residential customer classes in the Central Maine Power Company ("CMP") and Bangor Hydro-Electric Company ("BHE") service areas.

### **B. Fee Paid**

With its application, CPS Maine paid a \$100 fee to the Commission, as required by section 2(C)(5) of Chapter 305.

## **III. FINANCIAL ISSUES**

CPS Maine proposes to operate only as a provider of Standard Offer Service in Maine. Pursuant to section 2(B)(1)(c) of Chapter 305, CPS Maine does not have to furnish a security instrument to the Commission, but must comply with standard offer security requirements established by the Commission.

#### **IV. TECHNICAL ISSUES**

##### **A. Showing of Technical Capability**

CPS Maine, as a competitive electricity provider in Maine, must demonstrate it has the technical ability to enter necessary interconnection arrangements or contracts with Maine utilities, pursuant to section 2(B)(2)(a) of Chapter 305. In its application, CPS Maine provided information demonstrating its ability to enter into such arrangements or contracts.

Section 2(B)(2)(b) of Chapter 305 requires an applicant to demonstrate that it has the technical ability to secure generation or otherwise obtain and deliver electricity meeting all applicable requirements for the bulk power system control area in which the applicant would provide service. CPS Maine filed information to demonstrate its technical capability to meet that requirement within the NEPOOL/ISO-NE portion of the Northeast Power Coordinating Council control area. We have reviewed that information and find that it complies with the requirements of Chapter 305. CPS Maine also documented that it will meet the NEPOOL transaction provisions required by section 2(B)(2)(b)(ii) of Chapter 305.

##### **B. Resource Portfolio**

Pursuant to section 2(B)(4) of Chapter 305, CPS Maine, as a competitive electricity provider in Maine, must demonstrate its ability to meet the resource portfolio requirement of 35-A M.R.S.A. § 3210 and the portfolio requirement reporting rules in Chapter 311 of the Commission's rules. CPS Maine filed information to demonstrate its ability to meet these requirements. We have reviewed that information and find that it complies with the requirements of Chapter 305.

#### **V. CONSUMER PROTECTION ISSUES**

##### **A. Showing of Fitness**

In its application, CPS Maine provided information required by Chapter 305 section 2(B)(3) related to enforcement proceedings and consumer complaints. We have reviewed that information and find that it meets the requirements of Chapter 305.

##### **B. Ability to Comply with Consumer Protection Rules**

CPS Maine proposes to operate only as a provider of Standard Offer Service in Maine. Pursuant to section 2(B)(6) of Chapter 305, CPS Maine is not required to demonstrate its ability to comply with applicable consumer protection requirements.

C. Do-Not-Call List

Chapter 305, section 4(I) states that “[t]he Commission will maintain or cause to be maintained a ‘Do-Not-Call’ list of customers who have requested -- orally, in writing, or by commercially accepted electronic means -- that they not receive telemarketing calls from competitive electricity providers.” We require that licensees use do-not-call list mechanisms already in place nationally to satisfy that requirement. To the extent that it telemarkets to Maine consumers, CPS Maine shall comply with the following requirements.

CPS Maine must comply with the requirements of the Telephone Consumer Protection Act,<sup>1</sup> the Telemarketing and Consumer Fraud and Abuse Prevention Act,<sup>2</sup> and related rules of the Federal Communications Commission<sup>3</sup> and Federal Trade Commission.<sup>4</sup> CPS Maine must comply with those requirements and must maintain its own do-not-call list as required by those laws and rules, for all intrastate and interstate telemarketing of Maine consumers, including both residential and business consumers. CPS Maine shall not telemarket to Maine consumers on that list, as required in Chapter 305 section 4(I)(1). CPS Maine shall update its do-not-call list at least monthly, and maintain copies of that list for at least six months. CPS Maine shall provide a copy of that list to the Commission upon request.

Further, each month, CPS Maine must obtain listings of Maine consumers who have arranged to be included on the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc.<sup>5</sup> CPS Maine shall not telemarket to Maine consumers on that list, as required in Chapter 305 section 4(I)(1).

D. Other Consumer Protections

Competitive electricity providers must provide certain protections to consumers. As a condition of licensing, CPS Maine:

1. shall, except for Standard Offer Service, obtain a consumer’s authorization before serving the consumer;
2. may not release to any other entity, other than for purposes of debt collection or credit reporting pursuant to state and federal law or to

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<sup>1</sup>47 U.S.C. § 227

<sup>2</sup>15 U.S.C. §§ 6101-6108

<sup>3</sup>47 CFR 64.1200

<sup>4</sup>FTC Telemarketing Sales Rule, 16 CFR Part 310

<sup>5</sup>Telephone Preference Service, Direct Marketing Association, Inc., P.O. Box 9014, Farmingdale, NY 11735-9014

- law enforcement agencies pursuant to lawful process, any personal information regarding a customer, including name, address, telephone number, usage and historical payment information, without the consent of the customer;
3. must comply with the provisions of the Maine Unfair Trade Practices Act, Title 5, chapter 10;
  4. may not collect or seek to collect unreasonable costs from a customer who is in default;
  5. must comply with all applicable provisions of the federal Equal Credit Opportunity Act, 15 United States Code, Sections 1691 to 1691f;
  6. may not initiate a telephone solicitation call to a consumer who has notified the competitive electricity provider of the consumer's wish not to receive telephone solicitation calls made by or on behalf of the competitive electricity provider;
  7. must provide at least once annually to a customer any information disclosures required by the Commission by rule; and
  8. must comply with any other applicable standards or requirements established by the Commission by rule.

35-A M.R.S.A. § 3203(4-A).

## **VI. ADDITIONAL PROVISIONS**

CPS Maine must comply with all applicable requirements and limitations in Chapter 305 that are not explicitly waived. CPS Maine must also comply with all requirements and limitations in other applicable Commission rules, including any applicable future changes in Maine laws and Commission rules, and in other parts of this Order.

## **VII. ORDERING PARAGRAPHS**

Accordingly, we

1. license Constellation Power Source Maine, LLC to operate as a competitive electricity provider pursuant to Chapter 305 of the Commission's Rules; under this license, Constellation Power Source Maine, LLC may not provide any service except for Standard Offer Service in the service territories of Bangor Hydro-Electric Company and Central Maine Power Company in Maine;
2. order Constellation Power Source Maine, LLC to comply with all Do-Not-Call List requirements contained in Part V(C) of this Order to the extent that it telemarkets to Maine consumers;
3. order Constellation Power Source Maine, LLC to observe all other consumer protection requirements contained in Part V(D) of this Order; and

4. order that this license is effective on the date of this Order and valid until revoked by the Commission pursuant to section 3(A)(4) of Chapter 305, or abandoned by the licensee pursuant to sections 2(C)(9) and 2(C)(11) of Chapter 305 of the Commission's Rules.

Dated at Augusta, Maine, this 4<sup>th</sup> day of October, 2001.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:                      Welch  
   Diamond

COMMISSIONER ABSENT:                                      Nugent

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.